

Appln No.: 10/063,792
Amendment Dated: February 14, 2005
Reply to Office Action of December 15, 2004

REMARKS/ARGUMENTS

This is in response to the Official Action mailed December 15, 2004 for the above-captioned application. Reconsideration of the application, as amended, is respectfully requested.

Claims 1-23 and 28-41 are pending in this application. Claim 1 has been amended in response to remarks made by the Examiner in the Official Action. Since these remarks were made for the first time in the final rejection, they could not have been responded to earlier. Accordingly, entry of the amendment is appropriate and requested.

Claims 1-10, 13-23 and 28-39 stand rejected as obvious over the combination of Kozak, Cornell and Robinson. The Examiner argues that Kozak discloses what is in essence of fluorescent label because of an alleged teaching in Cornell that signs and labels are equivalent, and that putting such a label on the bottle of Robinson would have been obvious. Without conceding that this combination of references is appropriate, Applicants respectfully submit that the combined result is not within the scope of the present claims, and therefore that this combination does not give rise to a valid basis for an obviousness rejection.

In maintaining the rejection, the Examiner noted the argument that "the claimed photoluminescent is in the body of the bottle, not merely in a label applied to the bottle." The Examiner apparently found this argument unpersuasive, but does not clearly say why. It is noted that the discussion about the affect of the impact of the term "bottle" in the claims is not responsive to this argument, although Applicants agree that the scope of the claim is a bottle or other article having a bottle like shape. The only explanation for the main the maintenace of the rejection would appear to be the Examiner's statement that "claim 1, which is directed only to an article having protrusions, does not exclude protrusions formed from the presence of beads."

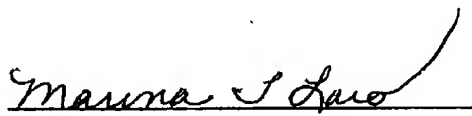
Applicants respectfully point out that claim 1 originally stated that the bottle "has a graphic image formed as cuts or protrusions, or both, on a surface of the molded body thereof to provide a luminescent visual effect in the shape of the graphic image ." Since the only luminescent material mentioned in the claim or in the specification is dispersed in the annular body, the reasonable and appropriate construction of this language is that the luminescent visual effect is a consequence of this material. The Examiner, however, has chosen to interpret the claims with sufficient breadth to have the luminescence come from an unrecited element of a sort that is not mentioned in the specification. While Applicants believe this is improper, Claim 1 has been amended to state that the graphic image arises "as a result of the photoluminescent material that is part of the plastic composition." This is plainly different from what is done in the cited references, and whether or not it is obvious to also add fluorescent beads is not at issue. Therefore Applicants submit that the rejection should be withdrawn.

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Claims 11-12, and 40-41 stand rejected over the same combination, further in view of Lee. Since Lee is relied on only for a teaching of the quantum yield of xanthene, Applicants submit that these claims are also allowable, and that Lee adds nothing that changes the arguments set forth above.

Applicants submit that the present application is now in form for allowance and such action is earnestly solicited.

Respectfully Submitted,


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